

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	WC Docket No. 10-90
Connect America Fund	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Support	)	

**PETITION OF WESTLINK COMMUNICATIONS, LLC AND THE KANSAS  
CORPORATION COMMISSION FOR WAIVER OF 47 C.F.R. 54.314(d)**

WestLink Communications, LLC (“WestLink”) and the Kansas Corporation Commission (“KCC”) (together, “Petitioners”), pursuant to Section 1.3 of the Rules and Regulations of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> hereby request a waiver of Section 54.314(d) of the Commission’s Universal Service Fund (“USF”) rules.<sup>2</sup> Specifically, Petitioners request a waiver of the October 1, 2017 filing deadline established for states to file their annual certification with the Universal Service Administration Company (“USAC”) regarding the use of federal high-cost support by Eligible Telecommunications Carriers (“ETCs”). As further detailed below, a waiver is needed to enable WestLink to receive high cost support for the period before the KCC filed a corrective certification with the FCC to include WestLink in the KCC’s 2017 high-cost certification. Grant of the requested waiver is in the public interest and is consistent with FCC precedent concerning late filings of high-cost certifications by state commissions.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> *Id.* § 54.314(d).

<sup>3</sup> *See* n.10, *infra*.

## **I. BACKGROUND**

WestLink is a GSM wireless carrier serving western and central Kansas with advanced voice and data services. On June 14, 2013, the FCC approved the acquisition of WestLink by United Wireless Communications, Inc. (“UW”),<sup>4</sup> and WestLink became a wholly-owned subsidiary of UW. Before the acquisition, UW and WestLink served substantially the same areas, except that WestLink served Scott City, Kansas, and UW did not. The KCC is required to certify annually with the FCC and USAC that WestLink has used and will use high-cost support only for the purposes for which it is intended.

In 2014, USAC requested that WestLink and UW file an application with the KCC requesting that the KCC find that UW was the successor-in-interest to WestLink and that, through WestLink, UW should receive and be responsible for any USF support that WestLink received (the “KCC Application”). On December 14, 2014, UW and WestLink amended the KCC Application to request ETC designation for UW in Scott City. The KCC granted the KCC Application (Exhibit 1, the “KCC Order”), making all of the findings requested by WestLink and UW.<sup>5</sup>

Pursuant to Section 54.313 of the Commission’s rules, recipients of high-cost support are required to submit by July 1 of each year to the relevant state commissions a certification regarding high-cost usage reporting and information (“Section 254(e) Certifications”).<sup>6</sup> State commissions

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<sup>4</sup> ULS File No. 0005651265.

<sup>5</sup> *In re Application of United Wireless Communications, Inc., and WestLink Communications, L.L.C. for Commission Findings Regarding Eligible Telecommunication Carrier Status and Designation as Requested by the Universal Service Administration Company to Streamline Federal Universal Service Support Reporting*, 15-UWCC-029-ETC, 2014 WL 7398609 (KCC Dec. 18, 2014).

<sup>6</sup> 47 C.F.R. § 54.313.

must then file a certification with USAC and the FCC by October 1 of each year listing the carriers that are eligible to receive high-cost support for the coming calendar year.<sup>7</sup>

In the years following the approval of the KCC Application, UW and WestLink continued to file separate Section 254(e) Certifications, as well as other related required annual certifications, including the FCC Form 481, with USAC and the FCC, and both entities continued to receive high-cost support until 2018. *See* Declaration of Todd Houseman, ¶ 2, attached hereto as Exhibit 2. On June 30, 2017, UW and WestLink continued this practice, and timely filed Section 245(e) Certifications with the KCC, and related required annual certifications with USAC and the FCC. *Id.* at ¶ 3. A copy of WestLink’s certification for 2017, timely filed with the FCC, is attached as Exhibit 3. Prior to 2018, WestLink received all of the high-cost support for which it was eligible from USAC without any issue or delay. T. Houseman Decl. at ¶ 4.

On September 26, 2017, the KCC filed its high-cost certification for 2017 (Exhibit 4, “2017 KCC High-Cost Certification”) with USAC and the FCC listing UW as an ETC. However, due to a misunderstanding between KCC staff and USAC staff, the KCC omitted WestLink from the 2017 KCC High-Cost Certification. USAC contacted the KCC on November 7 as to why WestLink was not included in the 2017 KCC High-Cost Certification. The KCC staff explained that it had omitted WestLink from the 2017 KCC High-Cost Certification because the KCC Order declared UW to be WestLink’s successor-in-interest, and thus KCC staff had presumed that UW’s inclusion would be sufficient to cover WestLink as well. USAC did not contact KCC staff any further, and KCC staff did not have any reason to believe that USAC’s inquiry was cause for concern regarding support for 2018.

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<sup>7</sup> *Id.* § 54.314(a).

A consultant for UW contacted the KCC on February 28, 2018 to report that UW had not received high-cost support for WestLink for January 2018. The KCC staff then contacted USAC, and USAC explained that although the KCC Order combined the relevant study areas for UW and WestLink, it did not negate the requirement that both study areas be certified. On March 13, 2018, the KCC submitted a revised 2017 High-Cost Certification for the sole purpose of correcting this misunderstanding and listing WestLink among the Kansas ETCs that should receive high-cost support for all of 2018. The revised 2017 KCC High-Cost Certification is attached hereto as Exhibit 5. As a result of the late-filed certification, WestLink is subject to a reduction in support of 116 days because, pursuant to Section 54.314, a certification for an ETC filed after the November 17, 2017 deadline will result in the ETC having its support reduced on a pro-rata daily basis equivalent to the period of non-compliance, plus the minimum seven-day reduction.<sup>8</sup>

USAC advised UW that the revised High-Cost Certification would result in the resumption of high-cost support for WestLink, but that it could not, *sua sponte*, offer relief for the missed payments between January 1 and April 27, 2018. Accordingly, USAC instructed UW to file the instant waiver request in order for WestLink to be able to receive the missed support payments in 2018. WestLink and the KCC now file the instant petition for waiver to enable WestLink to receive USF support for January 1, 2018 through April 27, 2018.

## **II. REQUEST FOR RELIEF**

Petitioners seek a waiver of Section 54.314(d) of the Commission's rules to permit WestLink to receive high-cost support for January 1, 2018 to April 27, 2018. Generally, the Commission's rules may be waived for good cause shown.<sup>9</sup> Waiver is appropriate if special

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<sup>8</sup> 47 C.F.R. § 54.314.

<sup>9</sup> *Id.* § 1.3.

circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>10</sup> The Commission has found good cause to exist to waive Section 53.314 in similar cases where an ETC lost support not through any fault of its own, but through a state commission missing the Section 53.314(d) filing deadline.<sup>11</sup> This includes circumstances such as the instant case where a state commission inadvertently omitted a carrier from the state commission's annual certification.<sup>12</sup>

In 2014, the FCC streamlined its internal review process for resolving requests for waiver related to actions taken by USAC.<sup>13</sup> Pursuant to this streamlined process, the FCC now issues periodic public notices "disposing of pending matters that do not involve complicated and/or controversial issues, in a manner consistent with Commission and/or Bureau precedent."<sup>14</sup> The instant case fits squarely into the FCC's streamlined processing procedure warranting grant of the requested waiver because the missing of the state certification deadline by the KCC through no

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<sup>10</sup> See generally *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

<sup>11</sup> See, e.g., *In the Matter of Petition for Waiver of Universal Serv. High-Cost Filing Deadline Fed.-State Joint Bd. on Universal Serv. CTC Telecom, Inc. d/b/a Snake River PCS Petition for Waiver of Deadline in 47 C.F.R. 54.314(d)(6)*, WC Docket No. 08-71, 25 FCC Rcd. 7242, 7244, ¶ 5 (2010); *West Virginia Public Service Commission Request for Waiver of State Certification Requirements for High-Cost Universal Service Support For Non-Rural Carriers*, CC Docket No. 96-45, Order, 16 FCC Rcd. 5784, 5786, ¶ 7 (2001) (filed by state commission after the filing deadline).

<sup>12</sup> See, e.g., *Illinois Commerce Commission's Petition for Waiver and Leave to File Certification of Eligible Telecommunications Carrier Out-of-Time*, CC Docket No. 96-45, 23 FCC Rcd. 6664 (Wireline Comp. Bur. 2008) (state commissions filed certifications after the deadlines and inadvertently omitted a carrier from a certification).

<sup>13</sup> See *Streamlined Process for Resolving Requests for Review of Decisions by the Universal Service Administrative Company*, Public Notice, CC Docket No. 96-45, DA 14-1330 (rel. Sep. 15, 2014).

<sup>14</sup> *Id.*

fault of WestLink is not a complicated or controversial matter. Indeed, the KCC is a party to this Petition to request relief, and to correct an inadvertent administrative error.

Grant of the requested waiver is appropriate to overturn USAC's decision not to provide high-cost support to WestLink during the period before the KCC filed its corrective certification to include WestLink in the 2017 KCC High-Cost Certification. The KCC's inadvertent omission of WestLink from the KCC's original certification was due to no fault of WestLink, and as discussed above, WestLink timely filed its 2017 Section 245(e) Certification with the KCC, and related required annual certifications, including the FCC Form 481, with USAC and the FCC. Grant of this waiver is in the public interest because it would allow WestLink to receive the necessary high-cost support needed to continue to provide voice and data services to rural Kansas and to bring additional high quality advanced telecommunications services as needed.

For these reasons, Petitioners respectfully request that the Commission grant the relief requested.

Respectfully submitted,

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Dated: April 30, 2018

## **EXHIBIT 1**

**The KCC Order Making Findings as to WestLink and UW**

**THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS**

Before Commissioners:                      Shari Feist Albrecht, Chair  
   Jay Scott Emler  
   Pat Apple

In the Matter of the Application of United                      )  
Wireless Communications, Inc. and                      )  
WestLink Communications, L.L.C. for                      )  
Commission Findings Regarding Eligible                      )  
Telecommunications Carrier Status and                      )                      Docket No. 15-UWCC-029-ETC  
Designation as Requested by the Universal                      )  
Service Administrative Company to                      )  
Streamline Federal Universal Service                      )  
Support Reporting.                      )

**ORDER GRANTING APPLICATION AND MAKING FINDINGS REGARDING  
ELIGIBLE TELECOMMUNICATIONS CARRIER (ETC) STATUS AND  
DESIGNATION**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and determination. Having examined its files and record, and being duly advised in the premises, the Commission finds and concludes as follows:

1.        On July 21, 2014, United Wireless Communications, Inc. (UW) and WestLink Communications, L.L.C. (WLC) (hereinafter, "the parties" or "Applicants") filed an Application requesting that the Commission make certain findings with respect to the parties' eligible telecommunications carrier (ETC) status, as requested by the Universal Service Administrative Company (USAC) for Federal Universal Service Fund (FUSF) reporting purposes.

2.        On December 11, 2014, UW and WLC filed an Amendment to their July 21, 2014 Application, requesting ETC designation for UW in Scott City, and as a result, with respect to UW and WLC, make the findings requested by USAC, as set forth in paragraph 4 below applicable to the entire study area, including Scott City, in order to streamline reporting to the FUSF.



3. On December 16, 2014, the Commission Staff (Staff) submitted its Report and Recommendation dated December 11, 2014, recommending the Commission grant UW's request for ETC designation for Scott City and make the findings requested by USAC for the purpose of streamlining FUSF reporting.

4. The parties' Application, as well as Staff's Report and Recommendation, provide detailed historic information regarding each of the parties' initial ETC designations, their subsequent service area expansions and relinquishments, and UW's acquisition of WLC, which was finalized by the parties on August 9, 2013. According to Staff, both companies serve similar areas, with the exception of Scott City. In order to streamline reporting responsibilities for UW and WLC to USAC, the administrator of the FUSF, USAC, has instructed UW and WLC to request that the Commission make certain findings which include the following:

- a) Find that UW is the successor-in-interest to WLC and that UW has acquired WLC's ETC designation;
- b) Find that UW should receive and be responsible for any federal universal service funds that WLC would have received had it continued to operate as a stand-alone entity for that service area; and
- c) Find that UW provides continuous seamless service to the entirety of both companies' ETC designated service areas through the acquisition.

UW maintains that the company's continued designation as an ETC after its acquisition of WLC is in the public interest and that the company continues to provide a full range of advanced telecommunications services to its Kansas customers offering the services and functionalities supported by the federal universal service support mechanisms required for designation as an ETC. Application at pages 2-4.

5. According to Staff, UW is a for profit Kansas corporation properly registered with the Kansas Secretary of State, and whose status with that office is *active and in good standing*. WLC is a Kansas limited liability company, also properly registered with the Kansas Secretary of State, whose status with that office is also *active and in good standing*. Staff indicates that the Commission granted Eligible Telecommunications Carrier (ETC) designations to UW in Docket Nos. 06-UWCC-243-ETC, 07-UWCC-293-ETC, 07-UWCC-975-ETC, and 09-UWCC-328-ETC. The Commission granted ETC designations to WLC in Docket Nos. 07-WLCT-1439-ETC and 10-WLCT-565-ETC. Referencing 47 U.S.C. § 214(e)(1) and (2), Staff provides the full text of these two statutes which set out the requirements for ETC's eligibility to receive universal service support and State commissions' role in designating ETCs. Report and Recommendation at pages 2 and 3.

6. Pursuant to 47 U.S.C. § 254(c), the Federal Communications Commission (FCC) identified the services or functionalities that shall be supported by the federal universal service support mechanisms. Staff notes that the supported services are set forth in 47 C.F.R. § 54.101(a), which reads:

Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

The parties' Application provides the following explanation of how UW provides Voice Telephony services:

- a. **Voice grade access to the public switched network or its functional equivalent.** Since 2006, UW provided such access to customers prior to its acquisition of WLC and continues to do so.
- b. **Local Usage.** UW's rates include unlimited minutes of use for local service at no additional charge.
- c. **Access to Emergency Services.** UW's network has provided and continues to provide access to 911, enhanced 911, and all other typically-available emergency services.
- d. **Toll limitation.** UW has provided and will continue to provide toll limitation services to qualifying low-income consumers.

Staff adds that with regard to the Local Usage component, the Commission determined in its October 2, 2006 Order in Docket No. 06-GIMT-446-GIT that it would follow the FCC's guidance and evaluate local usage by considering the comparability of a competitive ETC's offering on a case-by-case basis "by evaluating the total service package, including the local calling scope, included features, and usage that might otherwise be considered long distance". UW offers unlimited calling minutes, similar to wireline carriers; therefore, Staff believes UW's local usage is comparable to the incumbent providers finding that UW provides the supported services.

7. Applicants indicate that in accordance with the requirements of 47 C.F.R. §54.201, UW has advertised and will continue to advertise the availability of supported services throughout its designated service area using media of general distribution in a manner designed to reach those qualifying for service. Applicants state that UW has used and will continue to use a full range of media to advertise the availability of Lifeline benefits throughout its service area, as required by 47 C.F.R. 54.405(b). Referencing the Commission's October 10, 2006 Order in Docket No. 06-GIMT-446-GIT, adopting a requirement that all competitive ETCs advertise services in a meaningful way so as to ensure that all consumers understand the competitive

ETC's offerings, Applicants provide a comprehensive advertising format that will be used in all advertisements. Application at pages 4-5. Staff has reviewed and includes the full text of the subject advertising format in its Report and Recommendation at pages 4 and 5, and is satisfied that it meets the advertising requirement.

8. Responding to UW's statement that its continued designation as an ETC after its acquisition of WLC is in the public interest, Staff cites to the FCC's Virginia Cellular Order wherein new findings were made regarding determination of *public interest*. While the FCC's decision is not binding on this Commission, the Commission found in Docket Nos. 04-ALKT-283-ETC (Alltell) and 04-RCT-338-ETC (RCC Minnesota) that examination of the additional factors enumerated in the FCC's Order is reasonable. In the Application filed in this matter UW provides the following explanations of how it meets the guidelines that the FCC suggested for evaluation in the Virginia Cellular Order:

- a. **Benefits of Increased Competitive Choice.** UW intends to compete with the incumbent provider in its designated service area, offering consumers additional choices in the provision of telecommunications services.
- b. **Ability to Provide the Supported Services Throughout the Designated Service Area Within a Reasonable Time Frame.** UW has and continues to deploy the infrastructure necessary to accommodate service requests throughout its designated service area in a reasonable time frame.
- c. **Unique Advantages and Disadvantages of the Competitor's Service Offering.** UW offers a competitive alternative to the traditional wireline carrier in its service areas and has and continues to improve the community's advanced telecommunications offerings.
- d. **Commitments Made Regarding Quality of Telephone Service Provided by Competing Providers.** UW currently provides extremely high-quality telecommunications services and its continued designation as an ETC will continue to enable it to bring advanced services to its service areas.

- e. **Impact on Funds.** There will be no impact to the universal service fund; the purpose of this Application is to assist USAC in streamlining reporting to USAC.

Report and Recommendation at pages 5 and 6.

9. Staff agrees that granting the instant Application will not have an impact on the state or federal funds. Federal and State high-cost support is capped and is being phased out, and low-income support will not be impacted since the parties' request is not for a new ETC designation. With respect to UW's request for ETC designation for Scott City, the approval of which would result in its succession to the entire serving area of WLC, UW is entitled to the federal universal service funds that WLC would have acquired as a stand-alone entity, including Scott City. Continuing, Staff states that approval of UW's acquisition of Scott City will provide seamless service to the entire WLC customer base. Staff recommends approval of UW's ETC designation for Scott City. Concluding its analysis, Staff re-addresses the parties' requested Commission findings previously recited in paragraph 4 above, providing additional comment:

- (1) Find that UW is the successor-in-interest to WLC and that UW has acquired WLC's ETC designation.

Staff finds that the FCC approved the transfer of control of WLC to UW in Universal Licensing System File No. 0005651265, that UW is the successor-in-interest to WLC, and by granting the instant Application, UW will have acquired WLC's ETC designation.

- (2) Find that UW should receive and be responsible for any federal universal service funds that WLC would have received had it continued to operate as a stand-alone entity for that service area.

Staff finds that the FCC, as mentioned above, has recognized UW as the successor-in-interest per File No. 0005651265 and that UW has committed, as indicated below, that it currently and will continue to provide the necessary infrastructure to serve the entire area; therefore, it would

follow that UW would receive and be responsible for the federal universal service funds that WLC would have received had it continued to operate as a stand-alone entity for the service area.

- (3) Find that UW provides continuous seamless service to the entirety of both companies' ETC designated areas through the acquisition.

UW states in the Application that it currently and will continue to provide the necessary infrastructure to serve the areas affected in this Application; therefore, Staff recommends the Commission make this finding with the additional designation of Scott City. Concluding, Staff recommends approval of UW's request for ETC designation in Scott City and recognition of the combined companies of UW and WLC as a single entity per USAC's request to assist in streamlining the reporting for the combined company under UW's ownership. Staff indicates that both UW and WLC have previously filed and met the requirements for ETC certification in the State of Kansas, and believes it in the public interest of the citizens of Kansas to approve the parties' ETC Application. Staff further recommends the Commission make the requested finding.

10. The Commission adopts Staff's analysis and recommendations of December 11, 2014, as stated in its Report and Recommendation, which is attached hereto and made a part hereof by reference, and finds that the parties' Application is reasonable, in the public interest, and should be granted and that the requested findings should be made.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. United Wireless Communications, Inc. (UW) and WestLink Communications, L.L.C.'s (WLC) Application filed July 21, 2014, as further amended December 11, 2014, is hereby granted.

B. UW is hereby designated an eligible telecommunications carrier (ETC) in Scott City.

C. The Commission finds and determines that: (i) UW is the successor-in-interest to WLC and UW has acquired WLC's ETC designation; (ii) UW should receive and be responsible for any federal universal service funds that WLC would have received had it continued to operate as a stand-alone entity for that service area; and (iii) UW provides continuous seamless service to the entirety of both companies' ETC designated areas through UW's acquisition of WLC.


D. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529.

E. The Commission retains jurisdiction over the subject matter and the parties for the purpose of entering such further order, or orders, as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Com.; Apple, Com.

Dated: DEC 18 2014

  
ORDER MAILED DEC 19 2014  
Thomas A. Day  
Acting Executive Director

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**REPORT AND RECOMMENDATION  
UTILITIES DIVISION**

**TO:** Chair Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

**FROM:** Paula Artzer, Senior Telecommunications Analyst  
Christine Aarnes, Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** December 11, 2014

**SUBJECT:** Docket No. 15-UWCC-029-ETC

In the Matter of the Application of United Wireless Communications, Inc. and WestLink Communications, L.L.C. for Commission Findings Regarding Eligible Telecommunications Carrier Status and Designation as Requested by the Universal Service Administrative Company to Streamline Federal Universal Service Support Reporting.

**EXECUTIVE SUMMARY:**

United Wireless (UW) and Westlink Communications, L.L.C. (WLC) filed an Eligible Telecommunications Carrier (ETC) Application requesting the Commission make certain findings with respect to the parties' eligible telecommunications carrier status per a request from the Universal Service Administration Company (USAC). USAC is requesting particular findings from the Commission in order to streamline reporting for the two companies and to be treated as a single entity. UW filed a letter with the Commission in August of 2013 indicating UW had acquired WLC. Both UW and WLC individually have previously been approved for ETC Certificates in the state of Kansas.

Both Companies serve similar areas with the exception of Scott City. WLC currently serves Scott City; UW does not. UW amended its Application on December 11, 2014, and requested ETC designation in Scott City as part of this Docket. Staff recommends approval of UW's Application, including the Amendment.



## **BACKGROUND:**

UW filed this Request on July 21, 2014, indicating the combined companies currently have ETC designation in the study areas served by: Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T); CenturyLink-United; CenturyLink-Eastern; a portion of Haviland Telephone Company, Inc. (Haviland); Pioneer Telephone Assn., Inc. (Pioneer); a portion of Rural Telephone Service Company (Rural); a portion of South Central Telephone Assn. Inc. (South Central); and Elkhart Telephone Company (Elkhart) for the purpose of receiving high-cost and low-income support when providing universal service via wireless technology. Scott City is served by Sunflower Telephone Company, Inc. and is ETC designated and served by WLC only.

On August 28, 2013, the Federal Communications Commission (FCC) granted its consent to the transfer of control of Westlink from High Plains Telecommunications, Inc. to United Wireless Communications, Inc. (Universal Licensing System File No. 0005651265, filed by United Wireless Communications Inc.).

USAC, which is the Administrator of the Federal Universal Service Fund, stipulated UW and WLC request the Kansas Corporation Commission make the following findings in order for UW and WLC to file as one entity:

- 1) Find that UW is the successor-in-interest to WLC and that UW has acquired WLC's ETC designation;
- 2) Find that UW should receive and be responsible for any federal universal service funds that WLC would have received had it continued to operate as a stand-alone entity for that service area; and
- 3) Find that UW provides continuous seamless service to the entirety of both companies' ETC designated areas through the acquisition.

UW is a for profit Kansas Corporation having its principal place of business located at 1107 McArtor Rd., Dodge City, KS 67801. UW is authorized to conduct business in the state of Kansas and its status with the Kansas Secretary of State is "active and in good standing." WLC is also registered with the Kansas Secretary of State and has a status of "active and in good standing".

The Commission granted ETC designations to UW in Docket No. 06-UWCC-243-ETC, 07-UWCC-293-ETC, 07-UWCC-975-ETC and 09-UWCC-328-ETC and to WLC in Dockets 07-WLCT-1439-ETC and 10-WLCT-565-ETC.

## **ANALYSIS:**

### **Federal ETC Requirements**

Pursuant to 47 U.S.C. § 214(e)(1),

(1) A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such services and the charges therefore using media of general distribution.

Congress empowered the states to designate a common carrier as an ETC. Pursuant to 47 U.S.C. § 214 (e)(2),

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

### **Service or Functionalities**

The Federal Communications Commission (FCC) identified the services or functionalities that shall be supported by the federal universal service support mechanisms, pursuant to 47 U.S.C. § 254(c). The supported services are codified in 47 C.F.R. § 54.101(a), which reads as follows:

Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

In its Application, UW provided the following explanation of how it provides Voice Telephony services.

**Voice Grade Access to the Public Switched Network** – Since 2006 UW provided such access to customers prior to its acquisition of WLC and continues to do so.

**Local Usage** – UW's rates include unlimited minutes of use for local service at no additional charge.

**Access to Emergency Services** – UW's network has provided and continues to provide access to 911, enhanced 911, and all other typically-available emergency services.

**Toll Limitation** – UW has provided and will continue to provide toll limitation services to qualifying low-income consumers.

With regard to the local usage component, the Commission determined in its October 2, 2006, Order in Docket No. 06-GIMT-446-GIT (October 2<sup>nd</sup> Order) that it would follow the FCC's guidance and evaluate local usage by considering the comparability of a competitive ETC's offering on a case-by-case basis "by evaluating the total service package, including the local calling scope, included features, and usage that might otherwise be considered long distance." The Commission further stated that it would consider whether an ETC applicant offers unlimited calling to government, social service, health facilities, educational institutions and emergency numbers when considering comparability. UW offers unlimited calling minutes, similar to wireline carriers; therefore, Staff believes UW's local usage is comparable to the incumbent providers. Staff finds that UW provides the supported services.

### **Advertising**

Section 214(e)(1) of the Federal Act requires ETCs to advertise the availability of the supported services, throughout its ETC-licensed service area, by media of general distribution. UW indicates they have used and will continue to use a full range of media to advertise the availability of Lifeline benefits designed to reach those qualifying for service, throughout their service area.

Furthermore, UW will incorporate into its advertising, as required by the Commission's October 2<sup>nd</sup> Order, meaningful advertising language so that all consumers will understand what they can expect from a competitive ETC. UW states in its Application that it will incorporate the following language in all of its Kansas advertisements:

As a designated telecommunications carrier eligible to receive universal service support, United Wireless Communications is proud to offer the Lifeline programs in the state of Kansas. We will provide discounts off service activation (if applicable) and on basic monthly service for residential customers who qualify for

income-assisted programs. To determine if you qualify for Kansas Lifeline service, customers may call (888) 886-7956. For unresolved questions or complaints, you may contact the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection.

By mail: KCC - Consumer Protection  
1500 SW Arrowhead Rd  
Topeka, KS 66604

By phone: (800) 662-0027 - toll free  
(785) 271-3140-in Topeka

By email: public.affairs@kcc.ks.gov  
Hearing or  
Speech

Impaired: (800) 766-3777 - Kansas Relay Center

Staff is satisfied that UW will meet the advertising requirement.

### **Public Interest**

#### **1. Public Interest Factors**

The FCC, in its Virginia Cellular Order,<sup>1</sup> made new findings regarding determination of the public interest. While the FCC's decision is not binding on this Commission, the Commission found in its ALLTEL and RCC Minnesota Orders<sup>2</sup> that examination of the additional factors enumerated in the FCC's Order is reasonable.

In its Application, UW provided the following explanations of how it meets the guidelines that the FCC suggested for evaluation in the Virginia Cellular Order:

- **Benefits of Increased Competitive Choice** – UW intends to compete with the incumbent provider in its designated service area, offering customers additional choices in the provision of telecommunications services.
- **Ability to Provide the Supported Services Throughout the Designated Service Area Within a Reasonable Time Frame** – UW has and continues to deploy the infrastructure necessary to accommodate service requests throughout its designated service area in a reasonable time frame.
- **Unique Advantages and Disadvantages of the Competitor's Service Offering** – UW offers a competitive alternative to the traditional wireline carrier in its service areas and has and continues to improve the community's advanced telecommunications offerings.

---

<sup>1</sup> See *In the Matter of Federal State Joint Board on Universal Service: Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Released: January 22, 2004, ("Virginia Cellular Order"), FCC Docket No. DA 03-338.

<sup>2</sup> See Docket No. 04-ALKT-283-ETC, September 24, 2004, Order and Docket No. 04-RCCT-338-ETC, September 30, 2004, Order.

- **Commitments Made Regarding Quality of Telephone Service Provided By Competing Providers** – UW currently provides extremely high-quality telecommunications services and its continued designation as an ETC will continue to enable it to bring advanced services to its service areas.
- **Impact on Funds** – There will be no impact to the universal service fund; the purpose of this application is assist USAC in streamlining reporting to USAC.

Staff agrees that granting this Application will not have an impact on the state or federal funds. Federal and State high-cost support is capped and is being phased out, and low-income support will not be impacted since the request is not for a new ETC designation.

UW is asking for ETC designation for Scott City to cover the entire area currently served by WLC. By acquiring WLC, UW is the successor-in-interest to the entire serving area of WLC and is entitled to the federal universal service funds that WLC would have acquired as a stand-alone entity, including Scott City. Acquiring Scott City would allow UW to provide seamless service to the entire WLC customer base. Staff recommends approving UW's ETC designation for Scott City.

UW states that USAC requested this Commission find the following:

- 1) Find that UW is the successor-in-interest to WLC and that UW has acquired WLC's ETC designation;

Staff finds that that FCC approved the transfer of control of WLC to UW in Universal Licensing System File No. 0005651265, UW is the successor-in-interest to WLC, and by granting this Application, UW will have acquired WLC's ETC designation.

- 2) Find that UW should receive and be responsible for any federal universal service funds that WLC would have received had it continued to operate as a stand-alone entity for that service area; and,

Staff finds that the FCC, as mentioned above, has recognized UW as the successor-in-interest per File No. 0005651265 and that UW has committed, as indicated below, that they currently and will continue to provide the necessary infrastructure to serve the entire area; therefore, it would follow that UW would receive and be responsible for the federal universal service funds that WLC would have received had it continued to operate as a stand-alone entity for the service area.

- 3) Find that UW provides continuous seamless service to the entirety of both companies' ETC designated areas through the acquisition.

UW states in their Application that they currently and will continue to provide the necessary infrastructure to serve the areas affected in this Application; therefore, Staff

recommends the Commission make this finding with the additional designation of Scott City.

**RECOMMENDATION:**

Staff recommends approval of UW Application for the Designation as an ETC recognizing the combined companies of UW and WLC as a single entity per USAC's request to assist in streamlining the reporting for the combined company under UW's ownership. Staff recommends the Commission approve UW's request for ETC designation in Scott City. Staff recommends the Commission find that UW is the successor-in-interest to WLC's ETC designation, that UW should receive and be responsible for the universal service funds that WLC would have received had it continued to operate as a stand-alone company, and that UW provides continuous seamless service to the entire designated area of both companies. Staff finds both companies have previously filed and met the requirements for an ETC Certification in the State of Kansas, and it is in the public interest of the citizens of Kansas to approve this ETC Application.

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET  
TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
JAMES M. CAPLINGER, ATTORNEY JAMES M. CAPLINGER, CHARTERED 823 SW 10TH AVE TOPEKA, KS 66612-1618		
COLLEEN R. JAMISON JAMES M. CAPLINGER, CHARTERED 823 SW 10TH AVE TOPEKA, KS 66612-1618		
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		

ORDER MAILED **DEC 19 2014**

The Docket Room hereby certified that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.

## **EXHIBIT 2**

### **Declaration of Todd Houseman**



**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	WC Docket No. 10-90
Connect America Fund	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Support	)	

**PETITION OF WESTLINK COMMUNICATIONS, LLC AND THE KANSAS  
CORPORATION COMMISSION FOR WAIVER OF 47 C.F.R. 54.314(d)**

**DECLARATION OF TODD HOUSEMAN**

I, Todd Houseman, hereby declare under penalty of perjury that the following is true and correct:

1. I am the General Manager and CEO of United Wireless Communications, Inc. (“UW”) and WestLink Communications, LLC (“WestLink”). I am responsible for the day-to-day operations of the companies, and I provide this Declaration in support of the Petition for Waiver filed by WestLink and the Kansas Corporation Commission (“KCC”) in the above-captioned proceeding. I have personal knowledge of the facts set forth herein.

2. In every year since 2013, UW and its wholly-owned subsidiary, WestLink Communications, LLC (“WestLink”), have filed separate annual certifications for high-cost support, pursuant to 47 C.F.R. § 54.313, with the KCC and the Federal Communications Commission.

3. On June 30, 2017, UW and WestLink timely filed their annual certifications separately with the KCC, in the same manner as every other year since 2013.

4. Prior to 2018, WestLink received all of the high-cost support for which it was eligible from the Universal Service Administration Company without any issue or delay.

Executed this 26th day of April, 2018.

A handwritten signature in blue ink, appearing to read "Todd Houseman", is written over a horizontal line.

Todd Houseman

## **EXHIBIT 3**

### **WestLink Section 245(e) Certification for 2017**

LAW OFFICES  
JAMES M. CAPLINGER, CHARTERED  
823 S.W. 10<sup>TH</sup> AVE.  
TOPEKA, KS 66612-1618

JAMES M. CAPLINGER (1929 - 2015)  
JAMES M. CAPLINGER, JR.  
COLLEEN R. JAMISON

(785) 232-0495  
Fax (785) 232-0724  
[jrcaplinger@caplinger.net](mailto:jrcaplinger@caplinger.net)  
[colleen@caplinger.net](mailto:colleen@caplinger.net)

June 30, 2017

Lynn M. Retz, Secretary  
Kansas Corporation Commission  
1500 Arrowhead Rd  
Topeka, KS 66604

RE: Docket 17-GIMT-405-GIT  
Section 254(e) certifications

Dear Ms. Retz:

On behalf of United Wireless Communications, Inc. (WestLink Communications, LLC), attached please find for filing in Docket No. 17-GIMT-405-GIT the 254(e) certifications required by the Commission to be filed in this docket by July 3, 2017.

Some information in this filing has been marked as confidential; the company believes that the information is of such competitive sensitivity that its disclosure to any person other than the company, the Commission, and Staff is prohibited by K.S.A. 66-1220a. The Commission has not issued a protective order in this docket. As always, if you have any questions, please do not hesitate to contact me.

Cordially yours,



Colleen R. Jamison

cc: Todd Houseman

Encl.

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Chairman Pat Apple  
Commissioner Shari Feist Albrecht  
Commissioner Jay Scott Emler

In the Matter of Certification of Compliance )  
with Section 254(e) of the Federal )  
Telecommunications Act of 1996 and ) Docket No. 17-GIMT-405-GIT  
Certification of Appropriate Use of Kansas )  
Universal Service Fund Support. )

**SECTION 254(e) CERTIFICATION**  
**FEDERAL HIGH-COST UNIVERSAL SERVICE SUPPORT**  
**FCC Docket Reference: CC Docket No. 96-45**  
**and KANSAS UNIVERSAL SERVICE FUND SUPPORT**  
(Please type or print legibly)  
(Circle all appropriate support received)

1. My title is General Manager of United Wireless Communications, Inc. (WestLink Communications, LLC) (Company/ Cooperative). In this capacity, I am in a position of authority to direct how federal high-cost Universal Service Fund (USF), Connect America Fund (CAF) support, and/or Kansas Universal Service Fund (KUSF) support received will be used and by this certification I am binding United Wireless Communications, Inc. (WestLink Communications, LLC) (Company/Cooperative) to the statements made in this certification.

2. United Wireless Communications, Inc. (WestLink Communications, LLC) (Company/Cooperative) was named as an eligible telecommunications carrier by the Kansas Corporation Commission (KCC) for federal support purposes in Docket No. 07-WLCT-1439-ETC by order dated October 29, 2007 and KUSF support purposes in Docket No. 15-UWCC-029-ETC by order dated December 18, 2014.

3. By this affidavit, I certify that the USF, CAF and/or KUSF received by United Wireless Communications, Inc. (WestLink Communications, LLC) (Company/Cooperative) was used in the proceeding calendar year 2016 and will be used in the new calendar year 2018 only for the provision,

**Attachment 1**

maintenance, and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Telecommunications Act, and/or Kansas statutes and KCC Requirements.

I certify under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

(Pursuant to Kan. Stat. Ann. 53-601.)



\_\_\_\_\_  
Signature

Todd Houseman

\_\_\_\_\_  
Printed/Typed Name

Executed on 6/13/2017 date.

Email address: toddh@unitelcom.net

## **EXHIBIT 4**

### **2017 High-Cost Certification of the KCC**

Utilities Division  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027



20170926164211  
Filed Date: 09/26/2017  
State Corporation Commission  
of Kansas

Phone: 785-271-3220  
Fax: 785-271-3357  
<http://kcc.ks.gov/>

Pat Apple, Chairman  
Shari Feist Albrecht, Commissioner  
Jay Scott Emler, Commissioner

Sam Brownback, Governor

September 26, 2017

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Universal Service Administrative Company  
Vice President, High Cost and Low Income Division  
Universal Service Administrative Company  
2000 L Street, NW, Suite 200  
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 10-90, Annual State Certification of Support for  
Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314

Pursuant to the requirements of 47 C.F.R. § 54.314, the Kansas Corporation Commission hereby certifies to the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) that the telecommunications carriers included in this letter are eligible to receive federal high-cost support for the program years cited.

The Kansas Corporation Commission certifies for the carriers listed in Exhibit 1 all federal high-cost support provided to such carriers within Kansas was used in the preceding calendar year (2016) and will be used in the coming calendar year (2018) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Yours Truly,

Pat Apple, Chairman  
Kansas Corporation Commission

cc: KCC Docket No. 17-GIMT-405-GIT



**Certification for the Use of Federal USF Support  
ETCs in Kansas**

Company Name	Study Area no.	Date Received	Comments
Blue Valley Tele-Communications	411746	6/26/2017	
Bluestem Telephone Co.	See Sunflower	6/30/2017	Part of Sunflower Study Area
Columbus Telephone Company	411756	6/30/2017	
Council Grove Telephone Company	411758	6/23/2017	
CrawKan Telephone Cooperative, Inc.	411818	6/29/2017	
Cunningham Telephone Co. Inc.	411761	6/30/2017	
Elkhart Telephone Co. Inc.	411764	6/30/2017	
FairPoint Communications Missouri, Inc.	421472	6/30/2017	
Golden Belt Telephone Assn. Inc.	411777	6/21/2017	
Gorham Telephone Co.	411778	6/30/2017	
H & B Communications	411781	6/30/2017	
Haviland Telephone Co.	411780	6/27/2017	
Home Telephone Co. Inc.	411782	6/30/2017	
JBN Telephone Co. Inc.	411785	6/29/2017	
KanOkla Telephone Assn. Inc.	411788	6/27/2017	
LaHarpe Telephone Co.	411791	6/30/2017	
Madison Telephone, LLC	411801	6/22/2017	
MoKan Dial, Inc.	411807	7/3/2017	
Moundridge Telephone Co.	411808	6/30/2017	
Mutual Telephone Co.	411809	7/3/2017	
Peoples Telecommunications, LLC	411814	6/28/2017	
Pioneer Telephone Assn. Inc.	411817	6/29/2017	
Rainbow Telephone Co-op Assn. Inc.	411820	6/27/2017	
Rural Telephone Service Co., Inc.	411826	6/30/2017	
S & A Telephone Co., Inc.	411829	6/22/2017	
S & T Telephone Coop Assn.	411827	6/27/2017	
South Central Telephone Assn. Co.	411831	6/28/2017	
Southern Kansas Telephone Co.	411833	6/28/2017	
Southwestern Bell Telephone Company	415214	6/30/2017	
Sunflower Telephone Co.	411835	6/30/2017	
Totah Telephone Co. Inc.	412030	6/30/2017	
Tri-County Telephone Assn. Inc.	411839	6/23/2017	
Twin Valley Telephone, Inc.	411840	6/30/2017	
United Telephone Assn., Inc.	411841	6/30/2017	
CenturyLink fka UTC of Kansas	411842	6/26/2017	
CenturyLink fka UTC-MO dba UTC SE KS	411957	6/26/2017	
CenturyLink fka United Telephone Co. of Eastern Kansas	411317	6/26/2017	
Wamego Telecommunications Co., Inc.	411845	6/30/2017	
Wheat State Telephone, Inc.	411847	7/3/2017	
Wilson Telephone Co., Inc.	411849	6/30/2017	
Zenda Telephone Co.	411852	6/30/2017	
Big River Telephone Company	419018	6/29/2017	
Cellular Network Partnership d/b/a Pioneer	419014	7/3/2017	
City of Chanute	N/A	4/25/2017	
Epic Touch	419009	6/29/2017	
H & B Cable Service	419008	6/30/2017	
IdeaTek Telecom f/k/a Wildflower Telecommunications LLC	419016	6/30/2017	
LR Communications, LLC d/b/a Mutual Telecommunications	419038	7/3/2017	
Nex Tech	419007	6/29/2017	
Nex Tech Wireless	419010	7/3/2017	
NE Colorado Cellular d/b/a Viaero	419020	7/3/2017	
S&T Communications	419023	6/27/2017	
SkyBeam	N/A	7/10/2017	
United Wireless Communications	419011	6/29/2017	
USCOC of NE/KS d/b/a US Cellular	419012	6/30/2017	

## **EXHIBIT 5**

### **Revised 2017 High-Cost Certification of the KCC**

# STATE OF KANSAS



CORPORATION COMMISSION  
UTILITIES DIVISION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027

PHONE: 785-271-3220  
FAX: 785-271-3357  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.

SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | PAT APPLE, COMMISSIONER

March 13, 2018

Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Universal Service Administrative Company  
Vice President, High Cost and Low Income Division  
Universal Service Administrative Company  
2000 L Street, NW, Suite 200  
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 10-90, Annual State Certification of Support for  
Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314

Pursuant to the requirements of 47 C.F.R. § 54.314, the Kansas Corporation Commission (KCC) submitted to the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) on September 26, 2017, that the telecommunications carriers included in Exhibit 1 to its letter are eligible to receive federal high-cost support for the program years cited.

The KCC's September 26, 2017, letter and Exhibit 1 did not include WestLink Communications, LLC and the associated Study Area Code (SAC) 419015. As explained in the enclosed Order, it was KCC staff's understanding that United Wireless Communications, as WestLink's successor-in-interest, would receive the federal high-cost support associated with SAC 419015 without being listed in the KCC's certification. However, following recent discussions with the USAC, it is now understood that certification must be received for SAC 419015 in order for United Wireless to receive the associated federal high-cost support for SAC 419015.

Therefore, pursuant to the requirements of 47 C.F.R. § 54.314, the KCC certifies for the carriers listed in Exhibit 2 all federal high-cost support provided to such carriers within Kansas was used in 2016 and will be used in 2018 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

If you have any questions or concerns, please contact Christine Aarnes at 785-271-3132 or [c.aarnes@kcc.ks.gov](mailto:c.aarnes@kcc.ks.gov).

Yours Truly,

A handwritten signature in blue ink, reading "Shari Feist Albrecht". The signature is written in a cursive, flowing style.

Shari Feist Albrecht, Chair  
Kansas Corporation Commission

cc: KCC Docket No. 17-GIMT-405-GIT

**Certification for the Use of Federal USF Support  
ETCs in Kansas**

Company Name	Study Area no.	Date Received	Comments
Blue Valley Tele-Communications	411746	6/26/2017	
Bluestem Telephone Co.	See Sunflower	6/30/2017	Part of Sunflower Study Area
Columbus Telephone Company	411756	6/30/2017	
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Cunningham Telephone Co. Inc.	411761	6/30/2017	
Elkhart Telephone Co. Inc.	411764	6/30/2017	
FairPoint Communications Missouri, Inc.	421472	6/30/2017	
Golden Belt Telephone Assn. Inc.	411777	6/21/2017	
Gorham Telephone Co.	411778	6/30/2017	
H & B Communications	411781	6/30/2017	
Haviland Telephone Co.	411780	6/27/2017	
Home Telephone Co. Inc.	411782	6/30/2017	
JBN Telephone Co. Inc.	411785	6/29/2017	
KanOkla Telephone Assn. Inc.	411788	6/27/2017	
LaHarpe Telephone Co.	411791	6/30/2017	
Madison Telephone, LLC	411801	6/22/2017	
MoKan Dial, Inc.	411807	7/3/2017	
Moundridge Telephone Co.	411808	6/30/2017	
Mutual Telephone Co.	411809	7/3/2017	
Peoples Telecommunications, LLC	411814	6/26/2017	
Pioneer Telephone Assn. Inc.	411817	6/29/2017	
Rainbow Telephone Co-op Assn. Inc.	411820	6/27/2017	
Rural Telephone Service Co., Inc.	411826	6/30/2017	
S & A Telephone Co., Inc.	411829	6/22/2017	
S & T Telephone Coop Assn.	411827	6/27/2017	
South Central Telephone Assn. Co.	411831	6/26/2017	
Southern Kansas Telephone Co.	411833	6/26/2017	
Southwestern Bell Telephone Company	415214	6/30/2017	
Sunflower Telephone Co.	411835	6/30/2017	
Totah Telephone Co. Inc.	412030	6/30/2017	
Tri-County Telephone Assn. Inc.	411839	6/23/2017	
Twin Valley Telephone, Inc.	411840	6/30/2017	
United Telephone Assn., Inc.	411841	6/30/2017	
CenturyLink fka UTC of Kansas	411842	6/26/2017	
CenturyLink fka UTC-MO dba UTC SE KS	411957	6/26/2017	
CenturyLink fka United Telephone Co. of Eastern Kansas	411317	6/26/2017	
Warrego Telecommunications Co., Inc.	411845	6/30/2017	
Wheat State Telephone, Inc.	411847	7/3/2017	
Wilson Telephone Co., Inc.	411849	6/30/2017	
Zenda Telephone Co.	411852	6/30/2017	
Big River Telephone Company	419018	6/29/2017	
Cellular Network Partnership d/b/a Pioneer	419014	7/3/2017	
City of Chanute	N/A	4/25/2017	
Epic Touch	419009	6/29/2017	
H & B Cable Service	419008	6/30/2017	
IdeaTek Telecom f/k/a Wildflower Telecommunications LLC	419016	6/30/2017	
LR Communications, LLC d/b/a Mutual TeleCommunications	419038	7/3/2017	
Nex Tech	419007	6/20/2017	
Nex Tech Wireless	419010	7/3/2017	
NE Colorado Cellular d/b/a Viaero	419020	7/3/2017	
S&T Communications	419023	6/27/2017	
SkyBeam	N/A	7/10/2017	
United Wireless Communications	419011	6/29/2017	
USCOC of NE/KS d/b/a US Cellular	419012	6/30/2017	
WestLink Communications LLC	419015	6/29/2017	

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair  
Jay Scott Emler  
Pat Apple

In the Matter of a Certification of Compliance )  
with Section 254(e) of the Federal )  
Telecommunications Act of 1996 and ) Docket No. 17-GIMT-405-GIT  
Certification of Appropriate Use of Kansas )  
Universal Service Fund Support. )

**ORDER DIRECTING SUBMISSION OF REVISED CERTIFICATION**  
**LETTERS TO THE FCC AND USAC**

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On March 28, 2017, the Commission issued an *Order Opening Docket* (Opening Order) in this docket for purposes of collecting data from certain telecommunications carriers in Kansas. The data was used to determine whether the Commission would certify to the Federal Communications Commission (FCC) that Eligible Telecommunications Carriers (ETCs) in Kansas are utilizing Federal Universal Service Fund (FUSF) funds only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The data is also used to determine whether ETCs in Kansas utilized their Kansas Universal Service Fund (KUSF) monies appropriately.

2. On September 21, 2017, the Commission issued an Order Directing Submission of Certification Letters to the FCC and USAC, finding that all Competitive ETCs (CETCs) and Incumbent Local Exchange Carriers (ILECs) timely filed the necessary forms as required by the Commission's March 28, 2017 Opening Order. Further, the Commission ordered the submission

of letters to the FCC and the Universal Service Administrative Company (USAC) on or before October 1, 2017, certifying that all federal high-cost support provided to the carriers listed by Commission Staff (Staff) was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

3. Staff submitted a Report and Recommendation (R&R) to the Commissioners dated March 9, 2018, attached hereto and made a part hereof by reference. Staff states in its R&R that WestLink Communications, LLC (WestLink) was not included in the certification letter that was submitted to the FCC and the USAC on September 23, 2017, pursuant to the Commission's September 21, 2017 Order. As a result, the WestLink study area has not received FUSF support thus far in 2018.

4. Staff determined that United Wireless (UW), the successor in interest to Westlink, timely filed the necessary certifications and supporting documentation for all of its study area codes, including WestLink, in 2016 and 2017 and was entitled to receive FUSF support in 2018. Staff states that USAC requested the Commission submit a revised certification letter to the FCC and USAC, so that USAC can provide UW with the Westlink study area's FUSF support on a going-forward basis. USAC, Staff and the FCC will work to ensure that UW will be able to collect the FUSF support for the WestLink study area that it has not received thus far for 2018.

5. The Commission finds Staff's findings and recommendation to be reasonable and hereby adopts the same.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

A. Revised letters shall be submitted to the FCC and USAC certifying that the carriers listed in Exhibit 2 to Staff's Report and Recommendation have certified that their FUSF

support was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities for which the support is intended.

B. The parties have fifteen (15) days, plus three (3) days if service of this order is by mail, from the date this order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118; K.S.A. 77-529(a)(1).

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: 03/13/2018



Lynn M. Retz  
Secretary to the Commission

AAL



# STATE OF KANSAS

CORPORATION COMMISSION  
UTILITIES DIVISION  
1500 SW ARROWHEAD ROAD  
TOPEKA, KS 66604-4027



PHONE: 785-271-3220  
FAX: 785-271-3357  
<http://kcc.ks.gov/>

GOVERNOR JEFF COLYER, M.D.  
SHARI FEIST ALBRECHT, CHAIR | JAY SCOTT EMLER, COMMISSIONER | PAT APPLE, COMMISSIONER

## REPORT AND RECOMMENDATION UTILITIES DIVISION

**TO:** Chairman Shari Feist Albrecht  
Commissioner Jay Scott Emler  
Commissioner Pat Apple

**FROM:** Christine Aarnes, Chief of Telecommunications  
Sandy Reams, Assistant Chief of Telecommunications  
Jeff McClanahan, Director of Utilities

**DATE:** March 9, 2018

**SUBJECT:** Docket No. 17-GIMT-405-GIT

*In the Matter of Certification of Compliance with Section 254(e) of the Federal Telecommunications Act of 1996 and Certification of Appropriate Use of Kansas Universal Service Fund Support.*

### **EXECUTIVE SUMMARY:**

Section 254(e) of the Federal Telecommunications Act of 1996 provides that carriers receiving Federal Universal Service Fund (FUSF) support shall use the support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” States that desire eligible telecommunications carriers (ETCs) to receive federal support from the high-cost program must file an annual certification by October 1 with the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) stating that all FUSF high-cost support provided to such carriers within that state was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.<sup>1</sup>

For reasons that will be explained further in this Report and Recommendation, the Commission did not include WestLink Communications, LLC (WestLink) in the certification letter that was submitted to the FCC and the USAC on September 23, 2017. As a result, the WestLink study area has not received FUSF high-cost support thus far in 2018. Staff recommends the Commission submit a new certification letter to the FCC and the USAC to certify that all federal high-cost support for Kansas provided to the carriers listed, including for the WestLink study area, was used in 2016 and will be used in 2018 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

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<sup>1</sup> See 47 C.F.R. § 54.314.

## **BACKGROUND:**

On January 17, 2006, in Docket No. 06-UWCC-243-ETC, the Commission issued an Order designating United Wireless (UW) an ETC for FUSF high-cost support purposes in specific exchanges and study areas in Kansas. On November 28, 2006, the Commission expanded UW's ETC designation to include one additional exchange. On August 1, 2007, the Commission issued an Order designating UW as an ETC in its entire service area for Kansas Universal Service Fund (KUSF) purposes. On June 2, 2009, in Docket No. 09-UWCC-328-ETC, the Commission issued an Order expanding UW's ETC designation to include two additional study areas.

On November 21, 2007, in Docket No. 07-WLCT-1439-ETC, the Commission issued an Order designating WestLink as an ETC in certain areas for FUSF high-cost support purposes. On November 23, 2010, in Docket No. 10-WLCT-565-ETC, the Commission issued an Order designating WestLink an ETC for KUSF purposes in specific exchanges and study areas in Kansas.

In August 2013, the FCC approved a proposal by UW to acquire WestLink and the transaction was finalized on August 9, 2013. UW informed the Commission of this transaction via a letter to the Commission's Executive Director dated August 26, 2013.

In 2014, UW and WestLink approached USAC about combining the companies' study area codes in order to streamline reporting responsibilities for UW and WestLink. USAC instructed UW and WestLink to seek certain findings from the Commission.<sup>2</sup> Specifically, USAC requested UW and WestLink to seek the following findings from the Commission:

- a) Find that UW is the successor-in-interest to WestLink and that UW has acquired WestLink's ETC designation;
- b) Find that UW should receive and be responsible for any federal universal service funds that WestLink would have received had it continued to operate as a stand-alone entity for that service area; and
- c) Find that UW provides continuous seamless service to the entirety of both companies' ETC designated areas through the acquisition.

Therefore, on July 21, 2014, UW and WestLink filed a Joint Application in Docket No. 15-UWCC-029-ETC requesting the Commission make the requested findings. The Commission approved the Joint Application and made the requested findings in an Order issued on December 10, 2014.

Because the Commission approved the Joint Application and made the specific findings that USAC requested the companies seek from the Commission in order to streamline reporting and combine the companies' study area codes, it was Commission Staff's understanding that the Commission did not need to include WestLink in its annual certification to the FCC and USAC, beginning with the certification for 2015, which was submitted to the FCC and USAC in 2016.

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<sup>2</sup> USAC email is attached as Exhibit 1.

UW filed the necessary certifications and supporting documentation for all of its study area codes, including WestLink, on June 27, 2016, in Docket No. 16-GIMT-382-GIT.<sup>3</sup> The Commission filed its certification letter on September 23, 2016, with the FCC and the USAC to certify that the federal high-cost support provided to the listed carriers was used in 2015 and will be used in 2017 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The list did not include WestLink due to Staff's understanding that reporting had been streamlined for UW, including the WestLink study area, because UW was deemed WestLink's successor-in-interest.

UW received FUSF support in 2017 for the WestLink study area even though the WestLink study area was not included on the Commission's certification. Staff was recently informed by USAC that UW continued to receive support for the WestLink study area in 2017, despite not being included on the certification letter submitted by the Commission to USAC and the FCC, because Commission Staff completed an additional online certification that included WestLink's study area code.

On June 30, 2017, UW filed the necessary certifications and supporting documentation for all of its study area codes. On September 26, 2017, the Commission filed its certification letter with the FCC and the USAC to certify that the listed carriers used the support received in 2016 and will use the support received in 2018 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Similar to 2016, the Commission did not include WestLink on its certification due to the fact that UW was deemed WestLink's successor-in-interest.

On November 7, 2017, USAC contacted Commission Staff asking why WestLink and another carrier were not included on the 2017 certification letter. With regard to WestLink, Commission Staff responded that WestLink was omitted from the list because UW acquired WestLink and was deemed the successor-in-interest in a December 18, 2014 Order. Staff provided USAC with a link to the Order. Staff did not receive any further correspondence from USAC; therefore, Staff had no reason to believe there was cause for concern.

On February 28, 2018, Staff received a call from UW's consultant and was informed that UW did not receive its FUSF support for the WestLink study area because the WestLink study area was not included on the Commission's 2017 certification. Staff has been working with USAC to resolve this issue since this date.

USAC advised Staff on March 9, 2018, that the Commission needs to submit a revised certification letter to the FCC and USAC, so that USAC can provide UW with the WestLink study area FUSF support on a going-forward basis. USAC further informed Staff that it would continue to work with Staff and the FCC to ensure that UW will be able to collect the FUSF support for the WestLink study area that it has not received thus far for 2018.

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<sup>3</sup> UW acquired another ETC, Epic Touch, but has not requested that it be deemed the successor-in-interest for Epic Touch.

**ANALYSIS:**

UW filed the required annual ETC forms, including FCC Form 481, for the WestLink study area. Staff reviewed all of the submitted forms and confirmed that UW complied with all annual ETC certification filing requirements for the WestLink study area.

Exhibit 2 to this Report and Recommendation provides a revised list of the companies that submitted their Certification form and the date of each submission, including the WestLink study area.

**RECOMMENDATION:**

Staff recommends the Commission issue an Order confirming that UW complied with the certification requirements for the Westlink study area. Staff further recommends the Commission submit revised letters to the FCC and USAC as soon as possible, to certify that all federal high-cost support provided to the carriers listed on Exhibit 2, including for the WestLink study area, was used in 2016 and will be used in 2018 only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

**From:** Daniel Meszler  
**To:** [Sandy Reams](#)  
**Subject:** FW: combining SACs  
**Date:** Tuesday, March 06, 2018 3:17:43 PM  
**Attachments:** [image001.png](#)

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This is an EXTERNAL EMAIL. Think before clicking a link or opening attachments.

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*FYI....*

**From:** Joanne Kim [REDACTED]  
**Sent:** Tuesday, April 15, 2014 12:53 PM  
**To:** Stacey Brigham  
**Subject:** RE: combining SACs

Stacey,

Regarding a consolidation of the SACs 419015 and 419011, please confirm the following:

The appropriate State PUC must also find that your client's company is the successor-in-interest to the acquired company and that your client has acquired the company's ETC designation. The State PUC must also find that your client's company should receive and be responsible for any federal universal service funds that the acquired company would have received had it continued to operate as a stand-alone entity for that service area.

The State PUC must also find that your client's company provides continuous seamless service to the entirety of both companies' ETC designated areas through the acquisition.

I will also need any State PUC documentation regarding the acquisition by your client of this company and if you could let me know which of the two is the acquired company, that would be helpful.

Thank you,  
Joanne

Joanne Kim  
Office: [REDACTED]  
Email: [REDACTED]  
[www.usac.org](http://www.usac.org)

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**From:** Stacey Brigham [mailto:[REDACTED]]  
**Sent:** Monday, April 14, 2014 6:14 PM  
**To:** Joanne Kim  
**Subject:** RE: combining SACs

Joanne,  
The SACs are 419015 and 419011

Thanks,

Stacey Brigham  
[REDACTED]

**From:** HCLI Questions [<mailto:questions@hcli.universalservice.org>]  
**Sent:** Monday, April 07, 2014 5:53 AM  
**To:** Stacey Brigham  
**Subject:** RE: combining SACs

Stacey,

What are the study area codes?

Thank you,  
Joanne

Joanne Kim

Office: [REDACTED]

Email: [REDACTED]

[www.usac.org](http://www.usac.org)

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**From:** Stacey Brigham [REDACTED]  
**Sent:** Friday, April 04, 2014 2:55 PM  
**To:** HCLI Questions  
**Subject:** combining SACs

Hello,

I have a client that is wanting to combine two study area codes within a state. The wireless ETC has acquired another wireless ETC and has worked with their state commission to consolidate state USF reporting into a single report. They would like to do the same thing on the federal side, but are unclear of the process they need to follow. It is not entirely clear to me whether FCC approval will be required to combine these study areas since these are state designated ETCs. Can someone please direct me to the correct process on this?

Thank you,

**STACEY BRIGHAM**

Senior Regulatory Consultant

TCA

526 Chapel Hills Drive, Suite 100

Colorado Springs, CO 80920

P: [REDACTED] F: [REDACTED]  
[REDACTED]

**Certification for the Use of Federal USF Support  
ETCs in Kansas**

Company Name	Study Area no.	Date Received	Comments
Blue Valley Tele-Communications	411746	6/26/2017	Part of Sunflower Study Area
Bluestem Telephone Co.	See Sunflower	6/30/2017	
Columbus Telephone Company	411756	6/30/2017	
Council Grove Telephone Company	411758	6/23/2017	
CrawKan Telephone Cooperative, Inc.	411818	6/29/2017	
Cunningham Telephone Co. Inc.	411761	6/30/2017	
Elkhart Telephone Co. Inc.	411764	6/30/2017	
FairPoint Communications Missouri, Inc.	421472	6/30/2017	
Golden Belt Telephone Assn. Inc.	411777	6/21/2017	
Gorham Telephone Co.	411778	6/30/2017	
H & B Communications	411781	6/30/2017	
Haviland Telephone Co.	411780	6/27/2017	
Home Telephone Co. Inc.	411782	6/30/2017	
JBN Telephone Co. Inc.	411785	6/29/2017	
KanOkla Telephone Assn. Inc.	411788	6/27/2017	
LaHarpe Telephone Co.	411791	6/30/2017	
Madison Telephone, LLC	411801	6/22/2017	
MoKan Dial, Inc.	411807	7/3/2017	
Moundridge Telephone Co.	411808	6/30/2017	
Mutual Telephone Co.	411809	7/3/2017	
Peoples Telecommunications, LLC	411814	6/26/2017	
Pioneer Telephone Assn. Inc.	411817	6/29/2017	
Rainbow Telephone Co-op Assn. Inc.	411820	6/27/2017	
Rural Telephone Service Co., Inc.	411826	6/30/2017	
S & A Telephone Co., Inc.	411829	6/22/2017	
S & T Telephone Coop Assn.	411827	6/27/2017	
South Central Telephone Assn. Co.	411831	6/26/2017	
Southern Kansas Telephone Co.	411833	6/26/2017	
Southwestern Bell Telephone Company	415214	6/30/2017	
Sunflower Telephone Co.	411835	6/30/2017	
Totah Telephone Co. Inc.	412030	6/30/2017	
Tri-County Telephone Assn. Inc.	411839	6/23/2017	
Twin Valley Telephone, Inc.	411840	6/30/2017	
United Telephone Assn., Inc.	411841	6/30/2017	
CenturyLink fka UTC of Kansas	411842	6/26/2017	
CenturyLink fka UTC-MO dba UTC SE KS	411957	6/26/2017	
CenturyLink fka United Telephone Co. of Eastern Kansas	411317	6/26/2017	
Wamego Telecommunications Co., Inc.	411845	6/30/2017	
Wheat State Telephone, Inc.	411847	7/3/2017	
Wilson Telephone Co., Inc.	411849	6/30/2017	
Zenda Telephone Co.	411852	6/30/2017	
Big River Telephone Company	419018	6/29/2017	
Cellular Network Partnership d/b/a Pioneer	419014	7/3/2017	
City of Chanute	N/A	4/25/2017	
Epic Touch	419009	6/29/2017	
H & B Cable Service	419008	6/30/2017	
IdeaTek Telecom f/k/a Wildflower Telecommunications LLC	419016	6/30/2017	
LR Communications, LLC d/b/a Mutual TeleCommunications	419038	7/3/2017	
Nex Tech	419007	6/20/2017	
Nex Tech Wireless	419010	7/3/2017	
NE Colorado Cellular d/b/a Viaero	419020	7/3/2017	
S&T Communications	419023	6/27/2017	
SkyBeam	N/A	7/10/2017	
United Wireless Communications	419011	6/29/2017	
USCOC of NE/KS d/b/a US Cellular	419012	6/30/2017	
WestLink Communications LLC	419015	6/29/2017	

## CERTIFICATE OF SERVICE

17-GIMT-405-GIT

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of

Electronic Service on \_\_03/13/2018\_\_\_\_\_.

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**CERTIFICATE OF SERVICE**

17-GIMT-405-GIT

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/s/ DeeAnn Shupe  
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